

Message Text

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TO AMEMBASSY NEW DELHI NIACT IMMEDIATE

INFO AMCONSUL CALCUTTA

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E.O. 11652: N/A

TAGS: PFOR, PINS, IN, US

SUBJECT: WASHINGTON POST ARTICLE

REF: NEW DELHI 7043

TEXT OF LIFSCHULTZ STORY CONTAINED MAY 29 POST AS
FOLLOWS: QTE:

1. TWO AMERICANS AWAIT TRIAL IN INDIA ON CHARGE OF
SPYING: TWO YOUNG AMERICANS ARE EXPECTED TO GO ON TRIAL
HERE WITHIN TWO MONTHS IN THE FIRST CASE IN INDIA OF
WESTERNERS CHARGED WITH SPYING.
2. ANTHONY FLETCHER AND RICHARD HARCOS WERE ARRESTED ON
APRIL 26, 1973, IN CALCUTTA. THEY HAVE BEEN CHARGED UNDER
THE INDIAN OFFICIAL SECRETS ACT.
3. BOTH ARE ALLEGED TO HAVE PARTICIPATED IN ACTS WITH "A
PURPOSE PREJUDICIAL TO THE SAFETY OR INTERESTS" OF INDIA.
IF CONVICTED, THEY COULD BE SENTENCED TO LIFE IMPRISON-
MENT.

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4. HARCOS WAS ARRESTED IN THE KING GEORGE DOCK AREA OF

CALCUTTA, A "PROHIBITED AREA," WITH SCUBA DIVING GEAR. HIS COMPANION FLETCHER WAS ARRESTED AT THE WAVERLY HOTEL IN DOWNTOWN CALCUTTA.

5. SOURCES CLOSE TO THE INVESTIGATION REPORT THAT THE POLICE OFFICERS WHO BOOKED THE PAIR FOLLOWING THEIR ARREST INFORMED THEIR SUPERIORS THAT THEY HAD CAUGHT TWO SMUGGLERS.

6. NEVERTHELESS, INDIA'S ORIGINAL SUSPICION OF SMUGGLING SOON TURNED INTO A COMPLICATED THEORY OF A CONSPIRACY AGAINST INDIA.

7. ALTHOUGH ALL PROCEEDINGS OF THE CASE ARE SECRET UNDER THE REGULATIONS OF THE OFFICIAL SECRETS ACT, A NUMBER OF ELEMENTS OF THE PROSECUTION'S CASE HAVE RECENTLY COME TO LIGHT.

8. WHEN THE TRIAL OPENS, THE PROSECUTION APPARENTLY WILL ALLEGE THAT HARCOS AND FLETCHER, IN COLLABORATION WITH A THIRD MAN WHO LIVES IN SAN FRANCISCO, HATCHED A CONSPIRACY DURING OCTOBER 1972 TO CARRY OUT SUBVERSIVE ACTS IN INDIA ON BEHALF OF SOME OTHER COUNTRY.

9. IN THE VIEW OF INDIAN LAWYERS IN CALCUTTA HIRED BY THE DEFENSE, THE ATTITUDE OF THE AMERICAN EMBASSY HAS BEEN ONE OF NEAR INDIFFERENCE.

10. OTHER THAN A SYMPATHETIC VICE CONSUL IN CALCUTTA WHO HAS VISITED THE PRISONERS REGULARLY, THE AMERICAN EMBASSY HAS NOT APPEARED TO INVOLVE ITSELF IN THE CASE.

11. ACCORDING TO ONE OF THE LOCAL DEFENSE LAWYERS, "HARCOS AND FLETCHER WANT THE AMERICAN GOVERNMENT TO INFORM THE INDIAN GOVERNMENT OF THE TRUE FACTS OF THE CASE. THE AMERICANS KNOW THEY ARE NOT THEIR SPIES.

12. "THE AMERICAN GOVERNMENT HAS KEPT ITS DISTANCE BECAUSE IT WOULD LIKE THIS TRIAL TO GO ON IN SECRET WITHOUT ANY PUBLICITY OR POSSIBILITY OF SCANDAL- FOR LIMITED OFFICIAL USE

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REASONS OF STATE, THE PERSONAL FUTURE OF THE DEFENDANTS DOES NOT MATTER MUCH TO THEIR GOVERNMENT."

13. (STATE DEPARTMENT OFFICER DENNIS H. KUX SAID: "WE HAVE HANDLED THIS CASE AS WE WOULD ANY CASE- OUR CONCERN WAS FOR DUE PROCESS, ACCESS TO A LAWYER- WE ARRANGED FOR COUNSEL." HE ALSO SAID THAT "AS FAR AS THE DEPARTMENT IS AWARE, THEY HAD NO CONNECTION WITH THE U.S.

GOVERNMENT." HE SAID THAT IF CHARGES ARE SPECIFIED UNDER THE SECRETS ACT, THE EMBASSY WILL LOOK ANEW AT WHAT STEPS TO TAKE.")

14. SOURCES CLOSE TO THE CALCUTTA INVESTIGATION SAY THE

YOUNG AMERICANS CAME O INDIA TO THE HOPE OF SMUGGLING HASHISH BACK TO THE UNITED STATES.

15. HASHISH CAN BE INEXPENSIVELY PURCHASED IN LARGE QUANTITIES ON THE OPEN MARKET IN CALCUTTA. THESE SOURCES MAINTAIN THAT HARCOS WAS IN THE KING GEORGE DOCK AREA IN CONNECTION WITH THE SMUGGLING.

16. WHEN ARRESTED, THEY DID NOT ADMIT ANY SUCH ACTIVITY, ALLEGEDLY BECAUSE THEY FEARED THAT INDIA MIGHT HAVE STRINGENT LAWS AGAINST DRUG SMUGGLING.

17. INDIAN LAW IS ACTUALLY LENIENT IN THIS REGARD. LEGAL EXPERTS IN CALCUTTA SAY THERE HAVE BEEN MANY CASES IN THE PAST OF FOREIGNERS ARRESTED FOR SMUGGLING. THESE CASES HAVE USUALLY INVOLVED MERCHANT SEAMEN AND ALL HAVE BEEN LET OFF AFTER A STANDARD FINE OF 2,000 RUPEES (\$250).

18. DEFENSE LAWYERS IN CALCUTTA EXPRESSED FRUSTRATION OVER THEIR INABILITY TO FRAME A SATISFACTORY DEFENSE BECAUSE OF THE UNIQUE LEGAL RESTRICTIONS OF INDIA'S OFFICIAL SECRETS ACT.

19. A YEAR FOLLOWING THE ARREST OF THEIR CLIENTS, DEFENSE ATTORNEYS HAVE NOT BEEN PROVIDED WITH A SPECIFIC LIST OF CHARGES AGAINST THE ACCUSED NOR HAVE THEY,BEEN LIMITED OFFICIAL USE

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INFORMED OF THE FINDINGS OF THE POLICE INVESTIGATION.

20. "WE ARE IN THE DARK," SAYS S.P. DUDHEWALA, HARCOS' LAWYER. "AT THE TIME OF THE ACTUAL TRIAL WE WILL FORMALLY COME TO KNOW WHAT THE DEFENDANTS ARE SPECIFICALLY ALLEGED TO HAVE DONE."

21. THE DEFENSE FURTHER EMPHASIZES, THAT UNLIKE MOST OF INDIAN LAW, WHERE AN ACCUSED PERSON IS FORMALLY CONSIDERED INNOCENT UNTIL PROVEN GUILTY BY THE STATE, THE PRESUMPTION OF INNOCENCE IS REVERSED IN CASES TRIED UNDER THE OFFICIAL SECRETS ACT.

22. AN ADDED DIMENSION TO THE CASE DEVELOPED WHEN INDIA'S NEW CRIMINAL PROCEDURE CODE CAME INTO EFFECT APRIL 1.

THE NEW CODE ABOLISHED A DEFENDANT'S RIGHT TO A JURY TRIAL AND MEANS THAT HARCOS AND FLETCHER, IF THEY GO ON TRIAL, WILL BE CHARGED AND TRIED BEFORE A SINGLE JUDGE IN CALCUTTA'S CITY SESSION COURT. ALL TRIALS UNDER THE OFFICIALS SECRETS ACT ARE HELD IN SECRET.

23. SINCE THEIR ARREST, THERE HAS BEEN A TOTAL NEWS

BLACKOUT OF THE CASE IN INDIA. A FOREIGN JOURNALIST WHO RECENTLY INQUIRED INTO THE CASE WAS THREATENED WITH ARREST BY A MEMBER OF THE PROSECUTION STAFF. END QUOTE. RUSH

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